Mr. Rajah, in my view, is placing an extensive meaning to the term "Commercial House". Not all business carried on for the purpose of profit is a "Commercial House". A "Commercial House" is a business occupied with or engaged in commerce. The word "commerce" is a term of a specific meaning. There cannot be commerce except where commodities are bought and sold and to answer to the description of "Commercial House" the business must be conducted by buying and selling of commodities. Bus, theatre and film companies, and "bakery houses" are not "Commercial Houses" and the employees of the bus, theatre and film companies enumerated in paragraph 7 of the affidavit of Phua Siong Bee are not eligible to be members of the Union.

As regards "bakery houses" I take them to mean the bakers' establishments where bread is made. I am of the view that the employees of such an establishment are eligible for membership of the Union as they come within the meaning of "Factory Employees".

Order accordingly.

HAJI HUSSEIN & ORS. v. THE GOVERNMENT OF THE STATE OF KEDAH & PUTEH BIN HAJI MAN

[F.C. (Thomson L.P., Wylie C.J. (Borneo) & Tan Ah Tah F.J.) March 11, 1964]

[Penang — Federal Court Civil Appeal No. 2 of 1964]

Land—Arrears of quit rent etc.—Auction of land.

FEDERAL COURT.

Lim Kean Chye and *Mohamed Zahir bin Ismail* for the appellants.

Hamzah bin Dato Abu Samah (Legal Adviser, Kedah) for the 1st respondent.

M. Abraham for the 2nd respondent.

An appeal against the judgment of Suffian J. in the case of *Haji Hussein & Ors.* v. *The Government of the State of Kedah & Anor.* reported *supra* at p. 28, came before the Federal Court at Penang on March 11, 1964.

After some discussion relating to the points that the land revenue involved was not owed by the plaintiffs but by the personal representative of the deceased landowner in whom by reason of section 48 of the Kedah Land Code the land was vested and that no attempt had been made to serve notices in any way upon the representative, although at the material date the land was vested in the Chief Justice by reason of section 39 of the Probate and Administration Ordinance, 1959, counsel asked for an adjournment. Shortly afterwards counsel for the State of Kedah stated in Court that all parties were agreed that the appeal should be allowed; that the sale of the land should be annulled; that the money paid at the auction should be refunded by the State of Kedah to the second defendant to the original proceedings; and that there should be no order as to costs.

Solicitors: *Jayadewa, Zahir & Izmi; M. Abraham.*

Appeal allowed.

NG HENG TECK v. LEE KWEK CHUAN

[F.C. (Barakbah C.J. (Malaya), Wee Chong Jin C.J. (Singapore) and Tan Ah Tah F.J.) March 19, 1964]

[Singapore — Federal Court Civil Appeal No. 92 of 1963]

Negligence—Damages for personal injuries—Duty of care—Contributory negligence—Quantum of damages.

Damages—Personal injury—Leg—Fracture of femur, tibia and fibula—Shortening of leg—Knee—Stiffness and limited flexion—Ankle and foot—Limited movement—Permanent disabilities—Pain and suffering.

Precedent—Damages—Malayan and Singapore cases.

The plaintiff, a 61 year old Chinese herbist shop proprietor, was injured by the defendant's motor cycle while he was crossing a road. The defendant was riding his motor cycle approximately on the crown of the road. There was no traffic about and on seeing the plaintiff the defendant slowed down sounded his horn but continued straight on and collided with the plaintiff. The plaintiff sued for damages. At the trial liability was denied and it was pleaded that the plaintiff was guilty of contributory negligence. The learned trial Judge held that the plaintiff was not guilty of contributory negligence and he awarded damages including an assessment of general damages at $15,000 to the plaintiff. On appeal against the assessment of general damages,

Held: there was no ground for interfering with the finding of the trial Judge as to the assessment of damages and the appeal must be dismissed.

So far as quantum of damages is concerned Malayan cases are quotable in Singapore as authority for awards for similar injuries and also Singapore cases are quotable in Malaya and are accepted there.

Cases referred to:—

(1) *Mamat* v. *Abdul Manaf* [1963] M.L.J. 345.

(2) *Abdul Majid* v. *Pahang Lin Siong Motor Co. Ltd. & Anor.* [1963] M.L.J. 346.

(3) *Tessensohn* v. *Tan Yew Chye* digested [1964] M.L.J. XLV.

(4) *Goh Joo Hin* v. *Lim Thor Bah* digested [1964] M.L.J. XLV.

In addition the following cases were also cited in argument:

Low Ah Tow v. *Yusof Bin Kayab* [1954] M.L.J. 112; *Loughran* v. *Armstrong* [1956] M.L.J. 137; *Abdul Samad* v. *Gammon & Christiani-Neilsen* [1962] M.L.J. 394; *Pahang Lin Siong Motor Co. Ltd. & Anor.* v. *Cheong Swee Khai & Anor.* [1962] M.L.J. 29; *Aziz Bin Shariff* v. *Easy Bus Co. & Anor.* [1958] M.L.J. 261.

In the Court below the following judgment was delivered:

Buttrose J. (delivering oral judgment): In this case I am quite satisfied that the plaintiff